

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA	§	
	§	
	§	CRIMINAL No. 3:99-CR-108-M
v.	§	ECF
	§	
KELLY D. WALLACE	§	

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**


The District Court referred the Motion for Downward Departure for Substantial Assistance to Authorities of Kelly D. Wallace (“Movant”), filed May 29, 2008, to the United States Magistrate Judge for recommendation or determination. The Court has considered the motion, the United States of America’s (“Government) Response, and Movant’s Reply. The Court need not recite the procedural history of this case which Movant does not contest and which is fully set out in the Government’s Response, ordered filed under Seal on June 25, 2008.

Movant contends she earned a reduction in sentence pursuant to FED. R. CRIM. P. 35 due to post conviction cooperation and testimony. Movant has not even alleged an unconstitutional motive on the Government’s part in not filing a Rule 35 motion and fails to articulate any post conviction conduct that qualifies as cooperation or substantial assistance. The Government has no reason to request a reduction in sentence.

Movant failed to prove that the Government promised to file a FED. R. CRIM. P. 35 motion or that she is entitled to invoke the filing of such a motion. The Court recommends that the Motion

for Downward Departure for Substantial Assistance to Authorities of Kelly D. Wallace, filed May 29, 2008, be **DENIED**.

SO RECOMMENDED, July 15, 2008.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE